

**CRUCIBLE STEEL COMPANY**  
**Passaic River Study Area**  
**Evidence Summary**  
**Submitted by Chemical Land Holdings, Inc.**  
**June 11, 1997**

**846300001**

## Crucible Steel Company

### A. Discharge to Passaic

- Following the discovery by the PVSC of an oily discharge flowing into the Passaic from a culvert through the Crucible Steel complex (See Attachment A), the PVSC filed suit against Crucible Steel in Superior Court for Hudson County in 1970 (Docket No. C-2403). In its complaint, PVSC alleged that Crucible Steel allowed oily material to be discharged directly into the Passaic River unabated and requested that Crucible Steel be enjoined from such unabated discharges. (See Attachment B.)
- In an affidavit dated January 25, 1971, Arthur Whinn, who at the time was the maintenance superintendent of Crucible Inc., swore that the source of the unabated discharges that were the subject of the litigation was a large underground drainage system, part of which was owned by Whinn's employer. Whinn also swore that there had been occasional emissions of acid to the Passaic from that drainage system. (See Attachment C.)
- Irrespective of the makeup of the material discharged from this culvert, this litigation serves to establish the existence of a historical discharge conveyance from the Crucible Steel complex.

### B. Hazardous Substances were Used On-Site

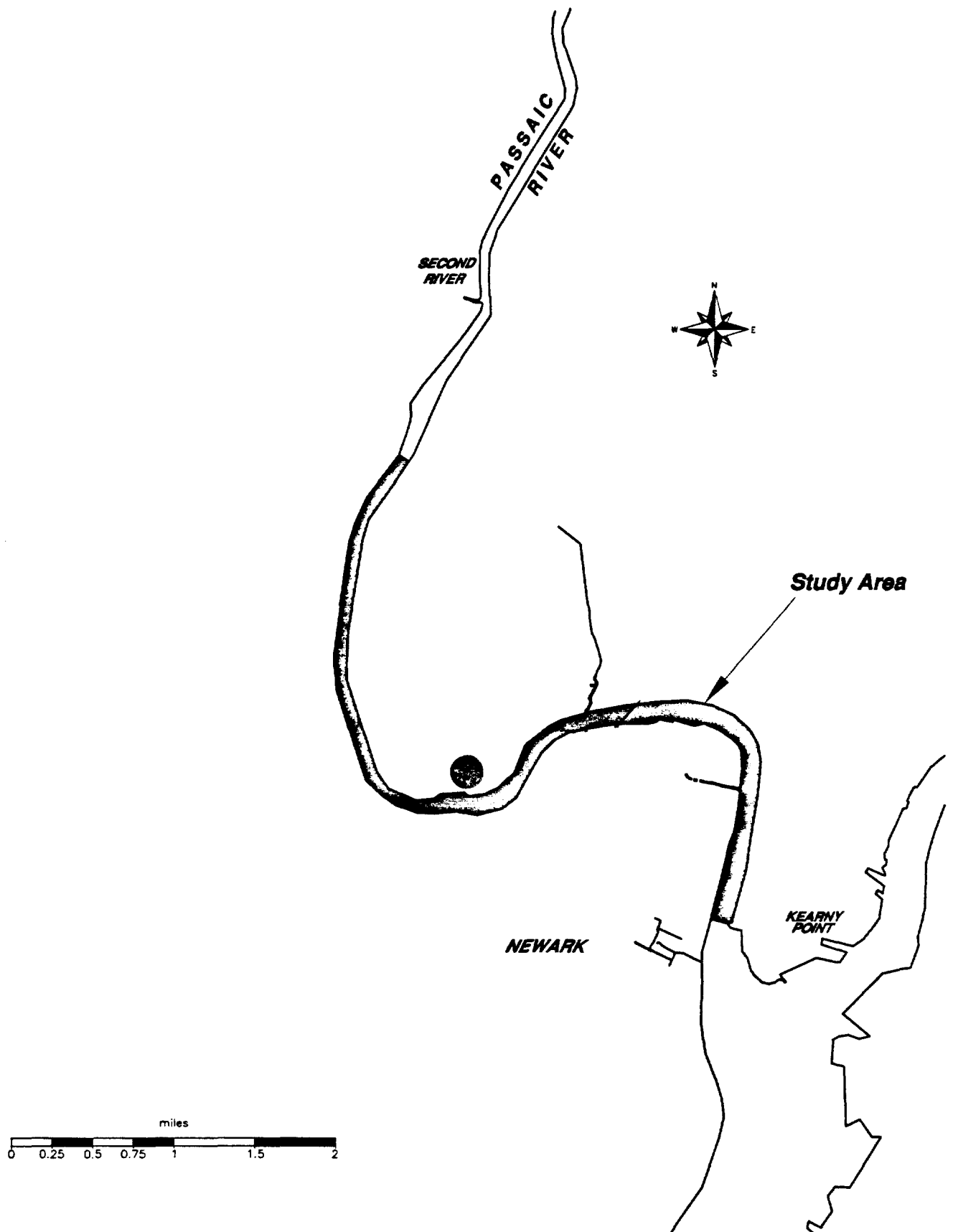
- Coltec Industries, who responded to the Region's 104(e) information request on behalf of Crucible Steel on October 25, 1996, indicated that Crucible had used chromium, nickel, and lead among the hazardous substances enumerated in question 3 of the 104(e) letter. (See Coltec's 10/25/96 104(e) response at p. 2.)

### C. Hazardous Substances Used On Site have Impacted River Sediments:

- As part of CLH's performance of the remedial investigation/feasibility study (RI/FS) for the Six Mile Study Area (Study Area), CLH has taken and analyzed sediment samples from locations adjacent to the Crucible Steel culvert discharge point. Among other substances found in the sediments were chromium, nickel and lead. (See Analytical Data Summary Tables, Passaic River Study Area Remedial Investigation, dated April 1996.)

D. Responsible Corporate Entity:

- In 1968 Crucible Steel merged with Colt Industries, Inc. (Pennsylvania) into Colt Industries, Inc. (Delaware). Colt Industries, Inc. (Delaware) changed its name to Coltec Industries in May of 1990.
- Correspondence should be sent to:  
Coltec Industries, Inc.  
430 Park Avenue  
New York, New York 10022  
  
Crucible Materials Corporation  
PO Box 977  
Syracuse, NY 13201

**Crucible Steel**

A

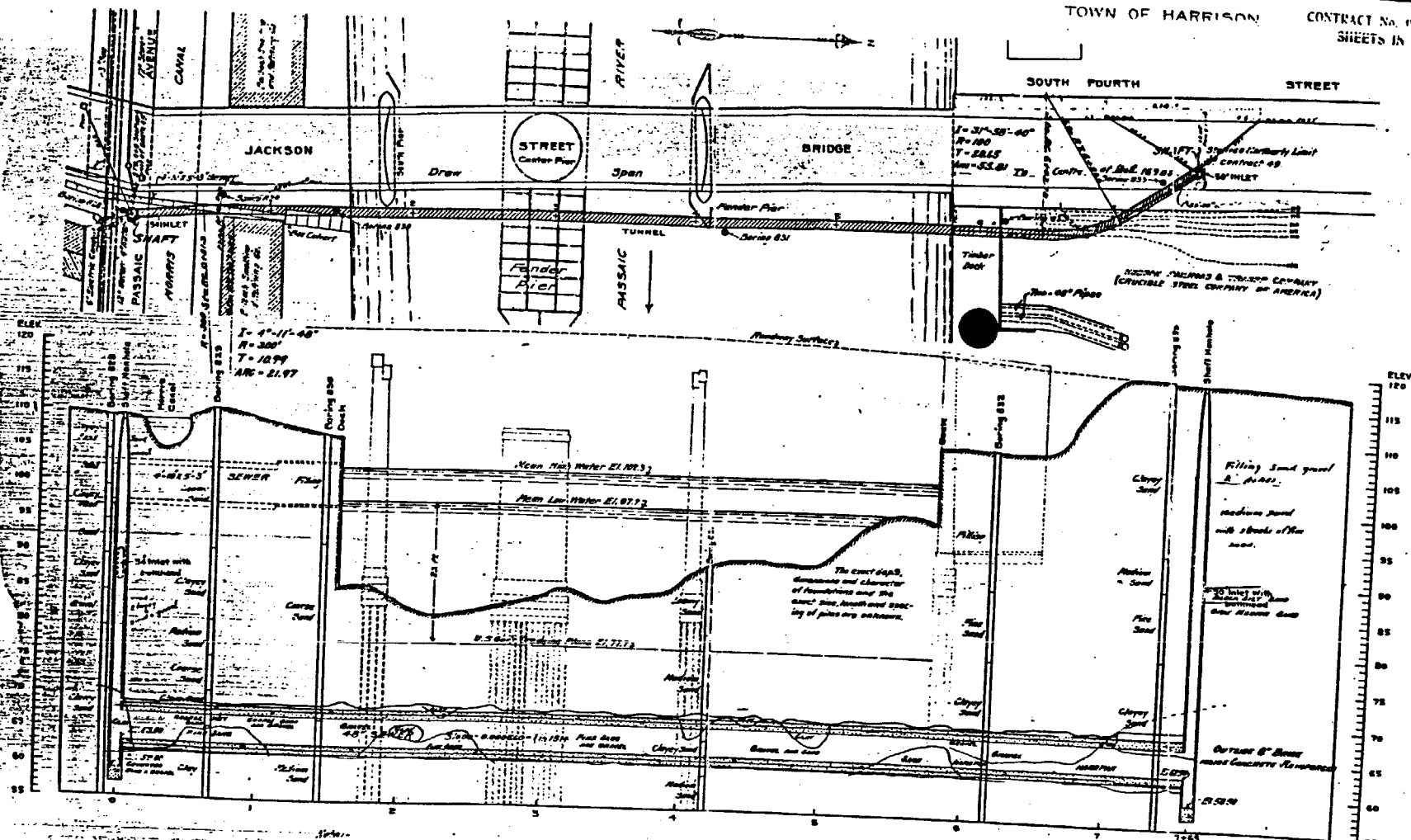
846300005

### **Graphical Depiction of Crucible Steel discharge mechanism**

- Illustrates Crucible Steel complex discharge route via drainage culvert

CITY OF NEWARK

TOWN OF HARRISON

CONTRACT No. 19 SH  
SHEETS IN SET, 2

## KEY TO MAP:

- Yellow Line - Sewer discharge pathway to Passaic River
- Green Dot - Direct discharge to Passaic River
- Blue Dot - Storm sewer discharge to Passaic River
- Yellow Dot - Combined sewer outfall ("CSO") discharge
- Red Dot - Approximate location of CSO regulator

## SCALES

Horizontal - 1 in. = 40 ft.

Vertical - 1 in. = 8 ft.

NOTE: The bridge and indications of pipe and other underground structures are supposed to be approximate, but should they be found to be otherwise, the contractor shall have no claim on this contract. It is further agreed that the Commissioner of the City of Newark shall have the right to determine the location of any given point shown by the Engineer, and the same shall be decided upon by the Engineer as occasion demands.

The sewer line may be moved within the limits of the sewer and takeings wherever thought best by the Engineer.

NOTE: The United States Government has authorized for the drawing of a portion of the Passaic River, including that adjacent to the Jackson Street Bridge. This drawing is an enlargement of the original, but no drawing has been done of the site of the said bridge. Until such time this drawing may be done is unknown. Further information may be obtained at the office of the Corps of Engineers, United States Army, Army Building, White Hall Street, New York City.

State of New Jersey

VALLEY COUNTY

Crucible Steel Company  
Crucible Steel Company Complex  
1000 South Fourth Street  
Harrison, New Jersey

846300007

B

846300008



**Court documents from PVSC v. Crucible Steel, Docket No. C-2403-69**

- Documents Crucible's ongoing discharge of oily material to the Passaic River

C-2403 - 69

DOCKETED

MAY 5 1970

FILED  
MAY 4 1970JOHN F. LYNCH  
J.S.C.FILED  
MAY 5 1970  
FINANCE BLDG.

RECEIVED

MAY 3 1970

JOHN F. LYNCH  
J.S.C.

C-2403 - 69

SUPERIOR COURT OF NEW JERSEY  
CHANCERY DIVISION - HUDSON COUNTY  
DOCKET NO.

P-66

PASSAIC VALLEY SEWERAGE  
COMMISSIONERS, a public  
corporation,

PLAINTIFF,

-vs-

CIVIL ACTION

COMPLAINT

CRUCIBLE STEEL CORPORATION  
OF AMERICA, SHALDING WORKS,  
1000 South Fourth Street  
Harrison, New Jersey,

DEFENDANT

Plaintiff, Passaic Valley Sewerage Commissioners, a public corporation, having its principal office in the City of Newark, County of Essex, and State of New Jersey, says that:

1. Plaintiff is a body corporate and politic, created, organized and existing under and by virtue of the laws of the State of New Jersey.

2. Plaintiff is vested with full power and authority and is charged with the duty to prevent the pollution of the Passaic River and its tributaries, and has full power and authority to sue, which said powers and duties are defined, granted and imposed under the laws of the State of New Jersey,

as set forth in the Revised Statutes of New Jersey, 1937, Title 58, Chapter 14, as supplemented and amended.

3. Plaintiff further shows that pursuant to the power, and authority vested in it, under and by virtue of the statute aforesaid, the plaintiff, acting under contract with certain municipalities within the Passaic Valley Sewerage Commissioners' District, as defined by law, constructed a sewerage system and disposal works for the intercepting and disposal of sewage or other polluting matter, in order to free said river and its tributaries from pollution; and put said system into operation on or about the 2nd day of August, 1924, which said system of sewerage and disposal works has ever been and still is in operation, being operated by plaintiff.

Under certain of the provisions of said law, i.e., N.J.S.A. 58:14-7, it is provided:

"No sewage or other polluting matter shall be discharged directly or indirectly, into the waters of the Passaic River at any point between the Great Falls in the City of Paterson and the mouth of said river at Newark Bay, or into the waters of any of the tributaries of said river which empty into it between said points, and the Commissioners may enforce the provisions of this chapter over and throughout all municipalities which may, or the inhabitants of which may, directly or indirectly discharge sewage or other polluting matter into said waters. The Commissioners may institute in their corporate name such civil actions as may be deemed necessary or appropriate to enforce the provisions of this section, and the Superior Court is hereby vested with jurisdiction to enforce said provisions by such actions brought by the Commissioners. The Court may proceed in such actions in a summary manner or otherwise. As amended L. 1953, c. 54, p. 963, s. 32."

and in N.J.S.A. 58:14-8, it is provided:

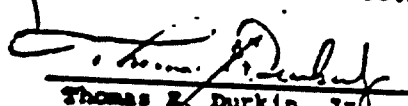
"No sewage, waste matter, article or substance, liquid or solid, of any kind which creates odors, gases or fumes, due to the putrefaction of organic matter or the presence of chemicals, or results in the presence of oil or grease on the surface of the waters of the Passaic River, or its tributaries, shall be placed or discharged, or be permitted to be placed or discharged, into the waters of said river between the points designated in section 58:14-7 of this title, or into its tributaries so designated. Whoever, other than a municipal corporation, after not less than ten days' nor more than six months' notice by the Commissioners, violates the provisions of this section shall be liable to a

penalty of one hundred dollars, and a further penalty of twenty-five dollars a day for each day the offense is continued, to be sued for and recovered by and in the name of the Commissioners."

5. The Defendant, Crucible Steel Corporation of America, maintains an industry in the Town of Harrison, County of Hudson, and State of New Jersey. For some time past, and continuing up to this time, with no present indication of abatement thereof, said Defendant has allowed polluting material to be discharged into the Passaic River between the Great Falls in Paterson and the mouth of said river at Newark Bay, through a culvert owned by said Defendant. The said polluting material contains, among other things, oil, imparting to the river a disagreeable appearance and odor. The said polluting material has been and is now being discharged through the culvert owned by the Defendant in the manner aforesaid, and will continue to be so discharged unless the said Defendant, Crucible Steel Corporation of America, is enjoined and restrained by order and judgment of this court.

6. All of the foregoing has constituted and now constitutes pollution of a very serious character contrary to and in violation of the statute aforesaid.

WHEREFORE, Plaintiff demands judgment enjoining and restraining the Defendant, Crucible Steel Corporation of America, Spalding Works, 1000 South Fourth Street, Harrison, New Jersey, its officers, agents, servants and employees from allowing a discharge into the Passaic River, of any matter or substance, liquid or solid, prohibited by N.J.S.A. 58:14-7 and 58:14-8.

  
Thomas E. Durkin, Jr.,  
Attorney for Plaintiff

STATE OF NEW JERSEY

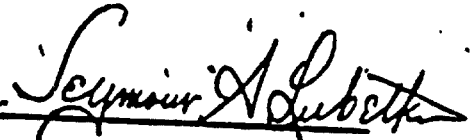
COUNTY OF ESSEX

VERIFICATION

Seymour A. Lubetkin, being of full age, duly sworn upon his oath, deposes and says:

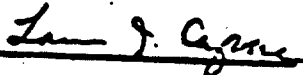
1. I am the Chief Engineer for the Passaic Valley Sewerage Commissioners and have been so employed for approximately fifteen years, next immediately preceding.

2. I have read the foregoing complaint and I am familiar with the contents thereof and know the same to be true.



Seymour A. Lubetkin,  
Chief Engineer

Sworn and subscribed  
before me, a Notary  
Public, in and for the  
County of Essex, State  
of New Jersey, on this  
10<sup>th</sup> day of  
April, 1970.



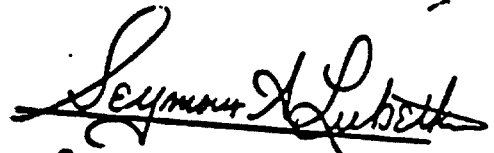
LOUIS J. CAPONE  
NOTARY PUBLIC OF NEW JERSEY  
My Commission Expires Mar. 2, 1971

846300013

STATE OF NEW JERSEY  
COUNTY OF ESSEX

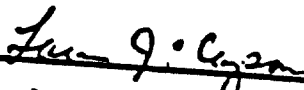
AFFIDAVIT

1. I, Seymour A. Lubetkin, as the Chief Engineer for the Passaic Valley Sewerage Commissioners and have been so employed for approximately fifteen years, next immediately preceding.
2. In my official capacity as Chief Engineer, I have received numerous reports from the Commissioners' River Inspectors reporting the discharge of prohibited matters into the Passaic River through a culvert owned by the Defendant, Crucible Steel Corporation of America, and on January 16, 1970, and again on February 4, 1970, by certified mail, I instructed the Defendant to cease and desist polluting.
3. The discharge of the complained of effluent is highly polluting to the Passaic River.



Seymour A. Lubetkin  
Chief Engineer

Sworn and subscribed before me,  
a Notary Public, in and for the  
County of Essex, State of New  
Jersey, on this 10th day of  
April, 1970.



LOUIS J. CAPONE  
NOTARY PUBLIC OF NEW JERSEY  
My Commission Expires May 2, 1971

Filing Fee \$20.00

REC'D  
MAY 25 1970

PAID  
JUN 2 1970  
TREASURY DEPT.

FILED

MAY 25 1970

*Arthur J. Lunn*  
Clerk

SIMON, DENSTMAN & NOONAN  
11 COMMERCE STREET  
NEWARK, N. J. 07102  
(201) 642-2886  
ATTORNEYS FOR Defendant

P-6i

SUPERIOR COURT OF NEW JERSEY  
CHANCERY DIVISION-HUDSON COUNTY  
DOCKET NO.

CC - 2403-69

PASSAIC VALLEY SEWERAGE  
COMMISSIONERS, a public  
corporation,

Plaintiff,

v.

CRUCIBLE STEEL CORPORATION  
OF AMERICA, SPALDING WORKS,  
1000 South Fourth Street,  
Harrison, New Jersey,

Defendant.

Civil Action

ANSWER

Defendant, Crucible, Inc., a corporation of the State of New Jersey, (denominated in the complaint as Crucible Steel Corporation of America, "Spalding Works"), whose Post Office address is 1000 So. Fourth Street, Harrison, County of Hudson and State of New Jersey, answering the complaint, says that:

1. Paragraph 1 is admitted.
2. Answering Paragraph 2, defendant admits that plaintiff is charged by statutes, in such case made and provided, with certain duties in respect to preventing pollution of the Passaic River and its tributaries, but for the true meaning and

purport thereof, and for the extent to which the same define and prescribe said duties reposed upon it, defendant refers plaintiff to the language of said statutes. Except as expressly herein admitted, Paragraph 2 is denied.

3. Answering Paragraph 3, defendant states that it does not have knowledge or information sufficient to form a belief concerning the allegations therein contained, respecting plaintiff's construction and operation of a sewage system and disposal works. Further answering said Paragraph, defendant contends that the provisions of N.J.S.A. 58:14-8, which prescribe the circumstances under which civil penalties are recoverable, are not applicable to this civil action, which is an action to secure an injunction.

4. Answering Paragraph 5, (the complaint containing no Paragraph numbered "4"), defendant denies that it does now or has in the past, discharged or allowed the discharge of polluting material into the Passaic River. It admits that it maintains an industry in the Town of Harrison, New Jersey. It admits that beneath the surface of the lands upon which it maintains said industry, there is, and for many years has been a drainage pipe which terminates and discharges into said river. All other allegations in said Paragraph not herein expressly mentioned, are denied.

5. Paragraph 6 is denied.

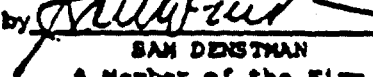
AFFIRMATIVE DEFENSE

Said drainage pipe alluded to in Paragraph 4 hereinabove also runs and extends beneath lands owned and used by others abutting upon and also near and in the general area of the premises on which defendant maintains its said industry. Said



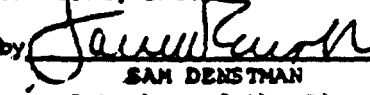
drainage pipe is part of a storm sewer or storm drainage system. Said system also includes numerous manholes, situated not only on the premises occupied by defendant but also upon said other lands owned and used by others. Surface water is collected in said manholes and is conducted into said drainage pipe through many lateral pipes connected thereto and, ultimately, discharged therefrom into the Passaic River. Said lateral pipes run and operate not only beneath the premises occupied by defendant as aforesaid, but beneath the lands owned and used by many others. Defendant contends that if polluting material has been or is being discharged into said river through drainage pipes, as plaintiff alleges, then the discharge thereof is being caused or allowed by other users of said storm drainage system and not by plaintiff.

SIMON, DENSTMAN & NOONAN,  
Attorneys for defendant  
CRUCIBLE, INC.

by   
SAM DENSTMAN  
A Member of the Firm

We hereby certify that the foregoing pleading was served within the time allowed by Rule 4:6-1 of the Civil Practice Rules.

SIMON, DENSTMAN & NOONAN,  
Attorneys for defendant  
CRUCIBLE, INC.

by   
SAM DENSTMAN  
A Member of the Firm

STATE OF NEW JERSEY :  
COUNTY OF ESSEX : s s

SYLVIA SAROS, of full age, being duly sworn according to law upon her oath deposes and says:

1. I am a secretary in the law offices of Simon, Danstman & Noonan, Esqs., 11 Commerce Street, Newark, New Jersey.

2. On May 22, 1970, I served a copy of the within Answer upon Thomas E. Durkin, Jr., attorney for plaintiff, 24 Branford Place, Newark, New Jersey, by enclosing said copy in an envelope addressed to said attorney, and by depositing said envelope, with postage thereon pre-paid, in the United States Mail, at 11 Commerce Street, Newark, New Jersey.

SUBSCRIBED AND SWORN TO :  
BEFORE ME THIS 22d DAY :  
OF MAY, 1970. :

*Sylvia Saros*  
SYLVIA SAROS

*Joan E. Molnar*  
JOAN E. MOLNAR  
Notary Public of New Jersey  
My Commission Expires Mar. 31, 1975

5/7 F, 1970

SIMON, DENSTMAN & NOONAN  
11 COMMERCE STREET  
NEWARK, N. J. 07102  
(201) 642-2888

ATTORNEYS FOR Defendant and Third Party Plaintiff

SUPERIOR COURT OF NEW JERSEY  
CHANCERY DIVISION-HUDSON COUNTY  
DOCKET NO.

PASSAIC VALLEY SEWERAGE COMMISSIONERS,  
a public corporation,  
Plaintiff,

v.

CRUCIBLE, INC., a New Jersey corpora-  
tion, (originally designated in the  
complaint herein as "Crucible Steel  
Corporation of America, Spalding  
Works"),

Defendant and Third Party  
Plaintiff,

v.

CHARLES F. GUYON, INC., NIELE BROS.  
TRUCKING CO., AZCO STEEL COMPANY,  
GABEST, INC., PRINCE PACKAGING PRO-  
DUCTS, INC., JOSEPH SUPOR TRUCKING CO.,  
HARRIS and SONS STEEL COMPANY, HARRI-  
SON WAREHOUSE COMPANY, ROSE RIBBON and  
CARBON MANUFACTURING CO. INC., ADMIRAL  
STEEL EQUIPMENT CO. INC., SUPER STEEL  
INDUSTRIES, INC., corporations, and  
MILES A. GALIN,

Third Party Defendants.

Civil Action

THIRD PARTY COMPLAINT

Third Party Plaintiff, Crucible, Inc., a New Jersey  
corporation, whose Post Office address is 1000 So. 4th Street,

Harrison, County of Hudson and State of New Jersey, complaining against the Third Party Defendants, says that:

1. Third Party Plaintiff operates a steel manufacturing plant upon lands owned by it in a portion of a large industrial complex in Harrison, Hudson County, New Jersey. Said complex, which contains in excess of 60 acres of land, is commonly known and designated as 1000 So. 4th Street, Harrison, New Jersey.

2. Heretofore, Third Party Plaintiff was the owner of said entire industrial complex. From time to time in the past, it conveyed to others portions of the lands and buildings comprising said complex until Third Party Plaintiff was left with and now retains 14 acres of land in said complex. The Third Party Defendants occupy various portions of the complex thus conveyed by Third Party Plaintiff, as the grantees of Third Party Plaintiff, or as the successors in interest of said grantees, or as the tenant of said grantees or their successors in interest. The Third Party Defendants conduct in and upon said lands thus conveyed various types of manufacturing, industrial and service industries.

3. At present there is, and at all times in the past material hereto, there has been an underground storm drainage system which lies beneath the lands retained and presently owned by Third Party Plaintiff, and the lands conveyed by Third Party Plaintiff to others, which latter lands are presently owned and/or occupied by the Third Party Defendants. Said storm drainage system consists of a long pipe which serves as a central drainage main and which empties into the Passaic River; numerous manholes located on the premises of Third Party Plaintiff, and on the premises of the Third Party Defendants, which collect surface water; and a number of underground lateral pipes which run beneath the lands of Third Party Plaintiff and the premises of the Third Party

30

Defendants, and which convey water collected in said manholes into said central drainage main and ultimately into the Passaic River.

4. Third Party Plaintiff has knowledge of 16 such lateral pipes. Four of said laterals run beneath Third Party Plaintiff's lands. Twelve of said laterals run beneath the lands owned or occupied by the Third Party Defendants. There may be additional laterals which run beneath the lands owned or occupied by the Third Party Defendants, but Third Party Plaintiff has no present knowledge of their existence or location.

5. Plaintiff, Passaic Valley Sewerage Commissioners, has filed a complaint against the Third Party Plaintiff in this action which alleges that Third Party Plaintiff has allowed and has continued to allow a polluting substance to enter the Passaic River through said drainage main. In said complaint, plaintiff, Passaic Valley Sewerage Commissioners, seeks a final judgment, which, if granted, would enjoin Third Party Plaintiff from allowing any substance prohibited by N.J.S.A. 58:14-7 and N.J.S.A. 58:14-8 to enter said river through said central drainage main. A copy of said complaint is annexed hereto, however, without intention on the part of Third Party Plaintiff to adopt as true the allegations thereof.

6. Third Party Plaintiff has made efforts to prevent the emission of any polluting substance into the Passaic River through said central drainage main. As a result of such efforts, Third Party Plaintiff believes that it is not responsible for such emission which plaintiff, Passaic Valley Sewerage Commissioners, alleges still continues. Third Party Plaintiff further believes that any alleged polluting substance claimed by plaintiff,

Passaic Valley Sewerage Commissioners, to be entering the Passaic River, from the river outfall of said central drainage main, may be entering said drainage system at a place or places on lands owned or occupied by one or more of the Third Party Defendants.

7. In addition to a final judgment containing an injunction as hereinabove described, plaintiff, Passaic Valley Sewerage Commissioners, has made application to the Court in this action, for an injunction preventing the discharge of polluting materials into the Passaic River pending entry of final judgment in this action. Any injunction granted in this action, whether final or pendente lite, will, or may limit, curtail, prevent or otherwise affect the use of said entire storm drainage system.

8. The Third Party Defendants have or may have legal rights in said storm drainage system, and in the use thereof, which rights have or may have been derived from certain easements created in various deeds of conveyance, wherein and whereby Third Party Plaintiff conveyed to others portions of the herein described industrial complex, or which were created in various agreements to which said Third Party Plaintiff was a party. Such rights, if any, are subordinate to the right of the public that no polluting substance should be discharged from said storm drainage system into the Passaic River.

9. Any Order or Judgment made in this civil action, pertaining to said central drainage system, will or may affect the aforementioned rights, if any, of the Third Party Defendants. Therefore, the Third Party Defendants, are necessary and indispensable parties to this action.

WHEREFORE, Third Party Plaintiff demands judgment against the Third Party Defendants:

A. Adjudging and declaring the rights, if any, of Third Party Defendants in and to said central drainage system.

B. Adjudging and declaring that the rights of Third Party Plaintiff and the rights, if any, of the Third Party Defendants in and to said central drainage system, and to the use thereof, are subordinate to the right of plaintiff, Passaic Valley Sewerage Commission, and of the public, that no polluting substance should be discharged into the Passaic River through said storm drainage system.

C. Adjudging and declaring that any Order or Judgment entered in this civil action and made in the public interest, which may curtail, limit, restrict, prevent or otherwise affect the use of said storm drainage system, shall be binding upon the Third Party Defendants and shall not give rise to any cause of action or claim in favor of the Third Party Defendants against the Third Party Plaintiff, for damages, compensation, or other relief of any kind whatsoever in law or in equity.

D. Enjoining and restraining any Third Party Defendant or defendants who may be causing or allowing any polluting substance to enter said drainage system from so doing.

E. If it shall be ordered or adjudged herein that said drainage system must be closed, enjoining and restraining all of the Third Party Defendants from causing or allowing any substance of any kind whatsoever to enter said drainage system.

F. For costs of suit.

SIMON, DENSTMAN & NOONAN,  
Attorneys for Defendant and  
Third Party Plaintiff,

*Sam Denstman*  
SAM DENSTMAN,  
A Member of the Firm.

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STATE OF NEW JERSEY :  
COUNTY OF E S S E X :

SYLVIA SAROS, of full age, being duly sworn according to law, on her oath deposes and says:

1. I am a secretary in the law offices of Simon, Denstman and Noonan, 11 Commerce Street, Newark, New Jersey.
2. On July 8, 1970, I mailed a copy of the within Notice of Motion upon Thomas E. Durkin, Jr. Esq., attorney for plaintiff, by enclosing said copy in an envelope addressed to said attorney at his office, 24 Branford Place, Newark, New Jersey, and by depositing said envelope, with postage thereon prepaid, in the United States mail at 11 Commerce Street, Newark, New Jersey.

SUBSCRIBED AND SWORN TO :  
BEFORE ME THIS 8th DAY :  
OF JULY, 1970. :

*Sylvia Saros*  
SYLVIA SAROS

*Joan E. Molnar*  
JOAN E. MOLNAR  
Notary Public of New Jersey  
My Comm. Expires Mar. 31, 1975.

We hereby certify that a clear carbon copy of the within Notice of Motion has been filed with the Chancery Division of the Superior Court in Hudson County.

SIMON, DENSTMAN & NOONAN,  
Attorneys for Defendant,  
Crucible, Inc.

BY *Sam Denstman*  
SAM DENSTMAN,  
A Member of the Firm.



C

846300025

**01/25/71 Affidavit of Arthur Whinn**

- Identifies underground drainage system as source of pollution and documents discharges of acid to the Passaic River

Jan 23, 1971

SIMON, DENSTMAN & NOONAN  
11 COMMERCE STREET  
NEWARK, N. J. 07102  
(201) 642-2856  
ATTORNEYS FOR CRUCIBLE, INC.

SUPERIOR COURT OF NEW JERSEY  
CHANCERY DIVISION-HUDSON COUNTY  
DOCKET NO.

PASSAIC VALLEY SEWERAGE  
COMMISSIONERS, a public  
corporation,

Plaintiff,

v.

CRUCIBLE, INC., a New Jer-  
sey corporation,

Defendant and Third  
Party Plaintiff,

v.

CHARLES F. GUYON, INC.,  
et al,  
Third Party Defendants.

Civil Action

AFFIDAVIT

STATE OF NEW JERSEY :

COUNTY OF HUDSON :

ARTHUR WHINN, being duly sworn according  
to law, upon his oath deposes and says:

1. I am employed at present by the defen-  
dant, Crucible, Inc., as its maintenance superintendent. I have  
held this position with Crucible, Inc., for approximately 3 years  
and for about 27 years prior to my present job assignment I have  
held various supervisory positions with my employer. The work  
done by my employer to locate and abate the pollution which is

involved in this case, has been largely done under my personal supervision. In this connection I have worked closely with Mr. William Bradley.

#### CORRECTIVE WORK ON CRUCIBLE'S PREMISES

2. The pollution about which plaintiff complains is a flow of fine oil which enters the Passaic River from the outfall of a large underground drainage system in an industrial complex in Harrison, New Jersey, a part of which is owned and occupied by my employer. There have also been occasional emissions of acid into the river from this drainage system.

3. To abate the acid problem Crucible, Inc., on about December 10, 1970, completed the installation of an acid holding reservoir and presently it discharges spent acid from its plant operations into this reservoir. There, spent acid is neutralized by mixing it with large quantities of water from plant operations. I am informed that since the installation of this reservoir the readings of samples of the effluent taken at the river outfall of the drainage system have been satisfactory.

4. Commencing in about January 1970, the following measures were taken by Crucible, Inc., to abate the flow of oil to the river from Crucible's premises:

(a) The prohibition of steam cleaning of equipment in the neighborhood of manholes that might connect to the drainage system.

(b) The cessation of dumping of waste oil into a pit near a surface drain.

(c) The sealing off of an oil discharge from a pump employed in Crucible's hood annealing operation.

(d) The re-routing of a drain line from a

roll-grinding operation away from a surface drain and into a holding reservoir.

5. As a result of these measures, which were completed by about the summer of 1970, I believe that no oil enters the river through the drainage system from Crucible's premises.

THE GUYON LATERAL NO. 1

6. Although Crucible eliminated the emission of oil from its own premises, thereafter samples of effluent taken at the river outfall continued to contain, at times, visible quantities of oil. As a result Mr. Bradley conducted an investigation in which I participated, in areas of the subject industrial complex, occupied by the Third Party Defendants. This investigation revealed that oil was entering the central main of the drainage system through a lateral pipe which has been identified as Guyon Lateral No. 1 in earlier proceedings had in this action. This lateral, as it is shown on a survey previously exhibited to the Court, joins the central drainage main about 150 feet west of the easterly boundary line of the industrial complex and extends underground in a generally southerly direction beneath the property of the Third Party Defendant, Charles F. Guyon, Inc. Other underground pipes running beneath the lands of Guyon and other Third Party Defendants, tie in to this lateral. So far as we have been able to determine these other Third Party Defendants are Harris & Sons Steel Company, Harrison Warehouse Company and Rose Ribbon and Carbon Manufacturing Co. Inc.

7. We have in the past found oil at different points in these connecting pipes and fairly consistently at the place where the Guyon No. 1 lateral joins the central drainage main. Extensive efforts, detailed in Mr. Bradley's af-

fidavit, were made by Crucible to discover the source of this oil. If the source could be found it was thought that the oil condition could have been eliminated at its source. However, the investigation detailed in Mr. Bradley's affidavit did not reveal the source.

8. After corrective measures as described in Paragraph 4 above were taken by Crucible, the sole remaining cause of oil pollution from within the industrial complex, to the best of my knowledge, is the oil which has been seen in the Guyon No. 1 lateral, and its connecting pipes. Because Crucible had not succeeded in locating the source of this oil, the only other means of abating it was to plug the Guyon No. 1 lateral at the place where it joins the central drainage main.

9. After a number of prior efforts to do so, Crucible installed a temporary plug in the Guyon No. 1 lateral on about November 30, 1970. This temporary plug consisted essentially of a hard rubber balloon inflated to about a 20 inch diameter to which there is connected a 100 foot tube with a stem valve at its end to permit the air in the balloon to be removed. A temporary rather than a permanent plug was used because Crucible desired to determine whether closing the Guyon No. 1 lateral would cause any back-up of water or flooding in the complex.

10. This plug remained in place until January 7, 1971. While it was in place I saw no flooding in the complex, and received no reports of flooding from anyone there, notwithstanding that during the first week in January 1971, there was, on several occasions, heavy precipitation in the area in the form of rain and snow.

11. While the temporary plug was in place, samples of effluent taken at the river outfall of the drainage

system, which samples I have seen, were clear of visible oil and I believe that Mr. Bradley's analyses of these samples indicate the same finding. Thus, the temporary closing of Guyon No. 1 lateral, in connection with other corrective measures completed by Crucible, resulted in an acceptable effluent.

12. However, the temporary closing of this lateral is not the long term answer to the oil problem. Temporary plugs are relatively fragile and eventually break down. On January 7, 1971, I was present when a representative of the plaintiff Commissioners took a sample of the effluent. It appeared oily. Thereafter, and on the same day, I examined the Guyon No. 1 lateral and observed that the temporary plug placed there on November 24, 1970, had loosened and that water was being discharged into the central drainage main from this lateral. It was too dark inside the drainage main, the place where I made my examination, to determine whether this water was oily, but the water which was discharging into the river at this time, was oily.

13. What is required is the permanent closure of the Guyon No. 1 lateral with a plug made of durable materials that will not loosen or disintegrate. Such a permanent plug would not have a release device upon it, as the air release device that was part of the temporary plug. This solution falls short of discovering what causes oil to enter the Guyon No. 1 lateral and the elimination of that cause. Crucible has expended considerable time, effort and money attempting, without success, to discover the cause. It can do nothing more except to install a permanent plug and it should be authorized to do so. If any other occupants of the complex object to this course of action, the Court ought to direct them, and especially the Third Party

Defendants, Guyon, Harris, Harrison Warehouse and Rose Ribbon at Carbon Manufacturing Company to locate and abate the cause themselves within a limited time. Upon their failure to do so, the Court should order permanent closure of the lateral. Crucible was able to eliminate the emission of oil attributable to its own operations because it has an intimate knowledge of those operations and it took the pains to effect correction. It does not have a like intimate knowledge of the operations of other occupants of the complex which would permit it to go further. I suggest to the Court that it is unfair to further tax the energies, resources and personnel of Crucible with the location of the cause and clean-up of oil pollution that has its origin on the property of others.

#### CLEAN-UP OF RIVER BANK

14. Plaintiff contends that oil has accumulated from the bank of the river at and near the outfall of the central drainage main and that this condition could be corrected. Representatives of Crucible and plaintiff have previously discussed methods of treating this situation and it was suggested that the bank of the river in the mentioned area should be covered in some manner with stones, sand, earth fill, or the like. Crucible undertook to investigate the feasibility and cost of work of this kind and is agreeable to going forward with it provided that other Third Party Defendants, including the Town of Harrison, who make use of the central drainage system, should share the cost.

15. Crucible received oral estimates from 3 contractors for the described work. None of these contractors would present flat figure estimates. All of them insisted upon



quoting estimates on an exclusive time and material basis. On the basis of one such estimate presented by one of these contractors, Spinella, I estimate that the total cost for the work proposed by Spinella would have been approximately \$44,000. I was not able to judge the approximate cost of the work on the basis of the proposals made by the remaining 2 contractors.

16. Crucible has also discussed with a fourth contractor, Joseph Nesto & Sons, two different alternative methods of treating the condition of the bank of the river. It believes that either of these methods would be feasible. Nesto suggested lining the bank with bags containing mixtures of sand and cement. This mixture would solidify when wet, and after solidification, a like covering of sand fill could be placed on the banks. Alternatively, Nesto proposed lining the bank with large stones and filling in this lining with sand and gravel. Either of these methods, according to Nesto, would cost approximately \$20,000. A written estimate has been requested of Nesto several times but at present it has not been received. Nesto did not estimate the time necessary to complete a project of this kind and as best as I can judge, it would take 3 or more weeks, tide and weather permitting. It would not be feasible to commence this work until oil pollution from within the complex is permanently abated. There is no sense in lining the bank of the river, if, thereafter, oil would come out of the drainage system and would be deposited on the new covering materials. This means that a permanent correction of the condition found at the Guyon No. 1 lateral should be accomplished before work on the bank of the river is undertaken.

17. The bank of the river and the land

Immediately adjacent to it, are owned by the Third Party Defendant, Public Service Electric & Gas Company. Before work on the river bank can go forward, it will be necessary for Public Service Electric & Gas Company to consent to such work and also to consent to entry upon its lands to perform that work. The consent will have to cover the bringing of heavy equipment, materials and personnel upon the property of this Third Party Defendant. If such consent is not forthcoming, the work on the bank of the river cannot go forward.

COSTS

18. In addition to the approximate \$20,000 verbal estimate quoted by the Nesto Company, Crucible has expended for labor costs for work performed by its own personnel, in connection with the subject pollution problem, as of December 28, 1970, \$4,251. This expense covers a total of 576 man hours devoted by Crucible personnel, including supervisory labor, to the project. 401 1/2 man hours were devoted by Crucible to work performed on its own premises and 174 1/2 man hours were devoted to work performed on the premises of other complex occupants. Of the \$4,251 in labor costs, Crucible has allocated \$2,905.50 for work performed on its own premises, and \$1,345.50 to work performed on the premises of other complex occupants. Annexed hereto, made a part hereof and marked Schedule A is a detailed breakdown of the aforementioned labor charges. In addition, Crucible, during 1970, has paid or owes Mr. Bradley for his services, a total of \$3,138. Annexed hereto, made a part hereof and marked Schedule B is a breakdown of Mr. Bradley's charges.

19. Crucible requests that the Court should require the other complex occupants to reimburse it for said \$1,345.50 labor charge, and for a pro-rata share of the \$3,138 paid or owed to Mr. Bradley. In addition, Crucible requests

that the Court should order the other complex occupants to contribute to the cost of the bank clean-up in such amounts as the Court finds equitable and just.

SUBSCRIBED AND SWORN TO :  
BEFORE ME THIS 25<sup>TH</sup> DAY :  
OF January 1971 :  
\_\_\_\_\_  
T. E. Sullivan :

*Arthur J. Whinn*  
ARTHUR WHINN

Notary Public of New Jersey.  
T. E. SULLIVAN  
NOTARY PUBLIC OF NEW JERSEY  
My Commission Expires March 12, 1973